

Protection Order Committee  
Judicial Conference of Indiana

**Minutes**  
March 28, 2008

The Protection Order Committee met at the Indiana Judicial Center on Friday, March 28, 2008 from 12:00 noon – 3:30 p.m.

1. Members present. Katherine Garza Bishko, Therese M. Brown, Stephen D. Clase, Ann L. Jochim, Christopher A. Newton, Jose D. Salinas, Cheryl A. Williamson, and Thomas H. Busch, Chair.
2. Staff present. Jeffrey Bercovitz and Tom Jones provided the committee with staff assistance.
3. Guests present. Lilia Judson, Executive Director, Division of State Court Administration; Judge David Certo, Marion Superior Court; Commissioner Valarie Horvath, Marion Superior Court; Commissioner Debbie Shook, Marion Superior Court; Mary DePrez, Director and Counsel, Trial Court Technology; Pat Hess, Consultant, Entara Technology Group, for JTAC; were also present.
4. Minutes. The January 25, 2008 minutes were approved.
5. Protection Order Deskbook.
  - a. Committee members reviewed and revised Chapter 2, the Clerk chapter of the Protection Order Deskbook. They agreed to complete revisions to this chapter at the next meeting.
  - b. Committee members reviewed the following assignments:
    - (1) Judge Hammel - Chapter 1, Jurisdiction;
    - (2) Clerk Brown and Clerk Jochim - Chapter 2, Duties of Clerk;
    - (3) Magistrate Clase - Chapter 3, Ex Parte Orders;
    - (4) Judge Busch - Chapter 4, Hearings;
    - (5) Mag. Williamson and Comm. Bishko - Chapter 5 and the portion of Chapter 6 which discusses No Contact Orders in Juvenile Court;
    - (6) Judge Salinas, Chapter 6, No Contact Orders;
    - (7) Judge Bonfiglio and Judge Busch – Chapter 7, Workplace Violence Restraining Orders;
    - (8) Judge Bonfiglio – Chapter 9, Modification and Termination; and
    - (9) Judge Newton-Chapter 10, Federal and State Firearms Laws.Committee members agreed to finish discussion of chapter 2, then Chapter 3, and Chapter 10 at the next meeting.

6. Marion County issues.

- a. Pat Hess, Consultant reported a problem with information being entered on a duplicate basis in the Protection Order Registry and the Marion County JUSTIS System. This issue was resolved – duplicate entries are not needed.
- b. Commissioner Debbie Shook, Marion Superior Court, reported a concern with a Notice to Appear being issued, whether or not the ex parte order was granted. If the ex parte order was not granted, but a hearing was set, the notice to appear would be issued.
- c. Commissioner Shook reported there were no uniform procedures in the Protection Order Registry for the surrender of firearms. Jeffrey Bercovitz reported the committee planned to discuss handling of firearms during the discussion of Chapter 10 revisions by Judge Newton.
- d. Commissioner Shook noted the language in protection order, paragraph 2, which prohibits communication directly or indirectly between the petitioner and respondent and cannot be changed. She uses paragraph 6 to indicate special conditions, including for example, “parties may communicate concerning parenting time issues” or “parties may conduct previously ordered parenting time” in the appropriate cases. These conditions may conflict with paragraph 2. Some committee members did not see a conflict with adding special conditions in paragraph 6. Committee members agreed to discuss revision of these two paragraphs.
- e. Commissioner Shook reported there are problems when the protection order registry, which “times out” while drafting an order. The order cannot be completed. Pat Hess reported investigating this issue and would investigate it further.
- f. Judge Certo, Marion Superior Court, reported the bottom of the petition form (PO-0100) indicates if the petitioner fails to appear for a protection order hearing, the court will dismiss the ex parte protection order petition and dismiss the case. He believes this should be changed to “may” dismiss the protection order petition. The committee agreed to discuss this at their April meeting.
- g. Judge Certo requested the petition form, (PO-0100) in the paragraph requesting the petitioner list other pending legal matters, pending protection orders should be mentioned first, and the word “all” should be changed to “any.” Committee members discussed mentioning listing of no contact orders too.
- h. Judge Certo reported there are two on line versions of Ind. Code 34-26-5-3, Version “a” and Version “b” and requested this committee urge this be fixed. Jeffrey Bercovitz believes this year’s technical correction bill fixed this issue, but will check to make sure.
- i. Jeffrey Bercovitz distributed a memorandum from Senior Judge Ruth Reichard concerning the initial hearing at the Arrestee Processing Center (APC) in Marion County and the use of that hearing to issue no contact orders with the Brady disqualification.

7. Presentation by Lilia Judson. Lilia Judson reported Judge Heimann recently requested the ex parte protection order form (PO-0105) be changed to permit a court to delete the portion of the conditions of the order which prohibit the respondent from engaging in domestic or family violence, stalking, or sex offenses against the petitioner when there may have been no allegations of one or more of these elements were made in the petition. Judge Busch said if it was legal to strike one of these elements of the order before, it should be legal to strike a portion of the order on the protection order registry. Committee members agreed to discuss revision of this order to

delete the portion not used by the court, and/or how to accomplish this on the protection order registry, at the next meeting.

8. Protection Order Registry.

a. Mary DePrez and Pat Hess distributed a handout showing county by county deployment of the Protection Order Registry (POR).

b. Mary DePrez discussed a grant request which would permit a public interface with the protection order registry. It would permit the public to prepare a protection order petition in advance, transmit it to the Clerk's office for review, and permit assignment of a case number.

9. Future meeting dates.

a. Members of the committee agreed to discuss protection order and petition form revisions at their next meeting in order to permit placement on the Protection Order Registry by July 1.

b. Committee members agreed to meet again on: Friday, April 25, 2008 and June 27, 2008, July 25, 2008, August 22, 2008 and October 24, 2008 all from 12:00 Noon – 3:30 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director  
Juvenile and Family Law